

**ASSEMBLY BILL**

**No. 740**

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**Introduced by Assembly Member Laird**

February 22, 2007

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An act to amend Sections 71200, 71201, 71204, and 71205 of, and to add Section 71204.6 to, the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 740, as introduced, Laird. Vessels: invasive species.

The Marine Invasive Species Act, which generally applies to all vessels carrying or capable of carrying ballast water into the coastal waters of the state after operating outside of the coastal waters of the state and to all ballast water and associated sediments taken on a vessel, imposes specified requirements on the master, owner, operator, or person in charge of one of those vessels, that operates in the waters of the state, to minimize the uptake and release of nonindigenous species, including the removal of fouling organisms from the hull, piping, and tanks on a regular basis. The act additionally requires the master, owner, operator, agent, or person in charge of one of those vessels, that visits a California port or place, to maintain specified information related to the vessel and ballast water management, and to make that information available to the State Lands Commission. The act defines terms for its purposes.

This bill would define the term “vessel fouling” for purposes of the act and specify that the act additionally applies to all vessel fouling. The bill would require those persons to remove vessel fouling organisms from hull, piping, propellers, sea chests, and other submerged portions of one of those vessels at least every 60 months. The bill would require

inwater cleaning of the submerged portion of a vessel while in the waters of the state to be conducted using specified procedures.

The bill also would require the master, owner, operator, or person in charge of one of those vessels, that visits a California port or place, to maintain on board the vessel specified records concerning drydocking, inwater cleaning of the submerged portion of the vessel, and antifouling paint applications to the submerged portion of the vessel. The bill would require the master, owner, operator, or person in charge to retain that information for 5 years, and would require the information to be available to the commission for inspection and review.

The bill would require the commission, by January 1, 2010, to develop and adopt regulations governing the management of vessel fouling on those vessels arriving at a California port or place, to protect the waters of the state.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 71200 of the Public Resources Code is
- 2 amended to read:
- 3 71200. Unless the context otherwise requires, the following
- 4 definitions govern the construction of this division:
- 5 (a) "Ballast tank" means ~~any~~ a tank or hold on a vessel used for
- 6 carrying ballast water, whether or not the tank or hold was designed
- 7 for that purpose.
- 8 (b) "Ballast water" means ~~any~~ water and suspended matter taken
- 9 on board a vessel to control or maintain trim, draft, stability, or
- 10 stresses of the vessel, without regard to the manner in which it is
- 11 carried.
- 12 (c) "Board" means the State Water Resources Control Board.
- 13 (d) "Coastal waters" means estuarine and ocean waters within
- 14 200 nautical miles of land or less than 2,000 meters (6,560 feet,
- 15 1,093 fathoms) deep, and rivers, lakes, or other water bodies
- 16 navigably connected to the ocean.
- 17 (e) "Commission" means the State Lands Commission.
- 18 (f) "EEZ" means exclusive economic zone, which extends from
- 19 the baseline of the territorial sea of the United States seaward 200
- 20 nautical miles.

(g) “Exchange” means to replace the water in a ballast tank using either of the following methods:

(1) “Flow through exchange,” which means to flush out ballast water by pumping three full volumes of mid-ocean water through the tank, continuously displacing water from the tank, to minimize the number of original coastal organisms remaining in the tank.

(2) “Empty/refill exchange,” which means to pump out, until the tank is empty or as close to 100 percent empty as is safe to do so, the ballast water taken on in ports, or estuarine or territorial waters, then to refill the tank with mid-ocean waters.

(h) “Mid-ocean waters” means waters that are more than 200 nautical miles from land and at least 2,000 meters (6,560 feet, 1,093 fathoms) deep.

(i) “Nonindigenous species” means any species, including, but not limited to, the seeds, eggs, spores, or other biological material capable of reproducing that species, or any other viable biological material that enters an ecosystem beyond its historic range, including any of those organisms transferred from one country into another.

(j) “Pacific Coast Region” means all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 25 degrees N latitude, exclusive of the Gulf of California. The commission may modify these boundaries through regulation if the proponent for the boundary modification presents substantial scientific evidence that the proposed modification is equally or more effective at preventing the introduction of nonindigenous species through vessel vectors as the boundaries described herein.

(k) “Person” means ~~any~~ an individual, trust, firm, joint stock company, business concern, or corporation, including, but not limited to, a government corporation, partnership, limited liability company, or association. “Person” also means ~~any~~ a city, county, city and county, district, commission, the state, or ~~any~~ a department, agency, or political subdivision of the state, ~~any~~ an interstate body, or the United States and its agencies and instrumentalities, to the extent permitted by law.

(l) “Sediments” means ~~any~~ matter settled out of ballast water within a vessel.

(m) “Waters of the state” means ~~any~~ surface waters, including saline waters, that are within the boundaries of the state.

(n) “Vessel” means a vessel of 300 gross registered tons or more.

(o) “*Vessel fouling*” means the attachment or association of marine organisms to the submerged portions of a vessel, including sea chests, anchors, and associated chains, of a vessel.

~~(p)~~

(p) “Voyage” means any transit by a vessel destined for ~~any~~ a California port or place from a port or place outside of the coastal waters of the state.

SEC. 2. Section 71201 of the Public Resources Code is amended to read:

71201. (a) This division applies to all vessels, United States and foreign, carrying, or capable of carrying, ballast water into the coastal waters of the state after operating outside of the coastal waters of the state, except those vessels described in Section 71202.

(b) This division applies to all ballast water and associated sediments taken on a vessel, *and to all vessel fouling*.

(c) This division may be known, and may be cited, as the “Marine Invasive Species Act.”

(d) The Legislature finds and declares that the purpose of this division is to move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state or into waters that may impact the waters of the state, based on the best available technology economically achievable. This division shall be implemented in accordance with this intent, except as expressly provided by this division.

SEC. 3. Section 71204 of the Public Resources Code is amended to read:

71204. Subject to Section 71203, the master, owner, operator, or person in charge of a vessel carrying, or capable of carrying, ballast water, that operates in the waters of the state shall do all of the following to minimize the uptake and the release of nonindigenous species:

(a) Discharge only the minimal amount of ballast water essential for vessel operations while in the waters of the state.

(b) Minimize the discharge or uptake of ballast water in areas within, or that may directly affect, marine sanctuaries, marine preserves, marine parks, or coral reefs.

(c) Minimize or avoid uptake of ballast water in all of the following areas and circumstances:

1 (1) Areas known to have infestations or populations of  
2 nonindigenous organisms and pathogens.

3 (2) Areas near a sewage outfall.

4 (3) Areas for which the master, owner, operator, or person in  
5 charge of a vessel has been informed of the presence of toxic algal  
6 blooms.

7 (4) Areas where tidal flushing is known to be poor or in turbid  
8 waters.

9 (5) In darkness when bottom-dwelling organisms may rise up  
10 in the water column.

11 (6) Areas where sediments have been disturbed, such as near  
12 dredging operations or where propellers may have recently stirred  
13 up the sediment.

14 (d) Clean the ballast tanks regularly in mid-ocean waters, or  
15 under controlled arrangements at port or in drydock, to remove  
16 sediments, and dispose of the sediments in accordance with local,  
17 state, and federal law.

18 (e) Rinse anchors and anchor chains when retrieving the anchor  
19 to remove organisms and sediments at their place of origin.

20 (f) *(1) Remove vessel fouling organisms from hull, piping, and*  
21 *tanks propellers, sea chests, and other submerged portions of a*  
22 *vessel, on a regular basis, and dispose of any removed substances*  
23 *in accordance with local, state, and federal law. For purposes of*  
24 *this paragraph, "regular basis" means a period that does not*  
25 *exceed 60 months.*

26 *(2) Inwater cleaning that is performed on the submerged*  
27 *portions of a vessel while in the waters of the state shall be*  
28 *conducted using procedures designed to minimize the release of*  
29 *coating and biological materials into the surrounding waters.*

30 (g) Provide access to the commission, upon request, for sampling  
31 of ballast intake and discharge.

32 (h) Maintain a ballast water management plan that was prepared  
33 specifically for the vessel and that shall, upon request, be made  
34 available to the commission for inspection and review. This plan  
35 shall be specific to each vessel and shall provide, at a minimum,  
36 a description of the ballast water management strategy for the  
37 vessel that is sufficiently detailed to allow a master or other  
38 appropriate ship's officer or crew member serving on that vessel  
39 to understand and follow the ballast water management strategy.

(i) Train the master, operator, person in charge, and those members of the crew who have responsibilities under the vessel's ballast water management plan, on the application of ballast water and sediment management and treatment procedures, as well as procedures described in this section, in order to minimize other releases of nonindigenous species from vessels.

SEC. 4. Section 71204.6 is added to the Public Resources Code, to read:

71204.6. On or before January 1, 2010, the commission, in consultation with the United States Coast Guard, shall develop and adopt regulations governing the management of vessel fouling on vessels arriving at a California port or place. The commission shall consider vessel design and voyage duration in developing the regulations. The regulations shall be based on the best available technology economically achievable and shall be designed to protect the waters of the state.

SEC. 5. Section 71205 of the Public Resources Code is amended to read:

71205. (a) (1) The master, owner, operator, agent, or person in charge of a vessel carrying, or capable of carrying, ballast water, that visits a California port or place, shall provide the information described in subdivision (c) in electronic or written form to the commission upon the vessel's departure from each port or place of call in California.

(2) The information described in subdivision (c) shall be submitted using a form developed by the United States Coast Guard.

(b) If the information submitted in accordance with this section changes, an amended form shall be submitted to the commission upon the vessel's departure from each port or place of call in California.

(c) (1) The master, owner, operator, or person in charge of the vessel shall maintain on board the vessel, in written or electronic form, records that include all of the following information:

(A) Vessel information, including all of the following:

(i) Name.

(ii) International Maritime Organization number or official number if the International Maritime Organization number has not been assigned.

(iii) Vessel type.

1 (iv) Owner or operator.

2 (v) Gross tonnage.

3 (vi) Call sign.

4 (vii) Port of Registry.

5 (B) Voyage information, including the date and port of arrival,  
6 vessel agent, last port and country of call, and next port and country  
7 of call.

8 (C) Ballast water information, including the total ballast water  
9 capacity, total volume of ballast water onboard, total number of  
10 ballast water tanks, capacity of each ballast water tank, and total  
11 number of ballast water tanks in ballast, using measurements in  
12 metric tons (MT) and cubic meters (m<sup>3</sup>).

13 (D) Ballast water management information, including all of the  
14 following:

15 (i) The total number of ballast tanks or holds, the contents of  
16 which are to be discharged into the waters of the state or to a  
17 reception facility.

18 (ii) If an alternative ballast water management method is used,  
19 the number of tanks that were managed using an alternative  
20 method, as well as the type of method used.

21 (iii) Whether the vessel has a ballast water management plan  
22 and International Maritime Organization guidelines on board, and  
23 whether the ballast water management plan is used.

24 (iv) Whether the master, operator, or person in charge of the  
25 vessel has claimed a safety exemption pursuant to paragraph (1)  
26 of subdivision (b) of Section 71203 for the vessel voyage, and the  
27 reason for asserting the applicability of that paragraph.

28 (E) Information on ballast water tanks, the contents of which  
29 are to be discharged into the waters of the state or to a reception  
30 facility, including all of the following:

31 (i) The origin of ballast water, including the date and location  
32 of intake, volume, and temperature. If a tank has been exchanged,  
33 the identity of the loading port of the ballast water that was  
34 discharged during the exchange.

35 (ii) The date, location, volume, method, thoroughness measured  
36 by percentage exchanged if exchange is conducted, and sea height  
37 at time of exchange if exchange is conducted, of ~~any~~ ballast water  
38 exchanged or otherwise managed.

1 (iii) The expected date, location, volume, and salinity of ~~any~~  
2 ballast water to be discharged into the waters of the state or a  
3 reception facility.

4 (F) Discharge of sediment and, if sediment is to be discharged  
5 within the state, the location of the facility where the disposal will  
6 take place.

7 (G) Certification of accurate information, ~~which~~ *that* shall  
8 include the printed name, title, and signature of the master, owner,  
9 operator, person in charge, or responsible officer attesting to the  
10 accuracy of the information provided and certifying compliance  
11 with the requirements of this division.

12 (H) Changes to previously submitted information.

13 (2) The master, owner, operator, or person in charge of a vessel  
14 subject to this subdivision shall retain a signed copy of the  
15 information described in this subdivision on board the vessel for  
16 two years.

17 (d) The master, owner, operator, or person in charge of a vessel  
18 subject to this division shall retain for two years a separate ballast  
19 water log outlining ballast water management activities for each  
20 ballast water tank on board the vessel and shall make the separate  
21 ballast water log available to the commission for inspection and  
22 review.

23 *(e) (1) The master, owner, operator, or person in charge of a*  
24 *vessel subject to this division shall maintain on board the vessel,*  
25 *in written or electronic form, records that include all of the*  
26 *following information:*

27 *(A) (i) Date and location of drydocking events.*

28 *(ii) Whether the submerged portion of the vessel, chains, sea*  
29 *chests, and anchors were cleaned during a dry-docking event.*

30 *(B) Date and geographic location of all inwater cleaning of the*  
31 *submerged portion of the vessel.*

32 *(C) (i) Date and geographic location of all antifouling paint*  
33 *applications to the submerged portion of the vessel.*

34 *(ii) The manufacturer and brand name of the antifouling paint*  
35 *applied to the submerged portion of the vessel.*

36 *(2) The master, owner, operator, or person in charge of a vessel*  
37 *subject to this division shall retain the information described in*  
38 *paragraph (1) for five years.*



1     (3) *The information described in paragraph (1) shall be*  
2     *available to the commission for inspection and review.*

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